



SMALL BUSINESS ADMINISTRATION

[Docket No.: SBA–2023-0005]

Development Company Loan Program—Job Creation and Retention Requirements;

Additional Areas for Higher Portfolio Average

AGENCY: Small Business Administration.

ACTION: Notification of changes to Development Company Program; request for comments.

SUMMARY: The Small Business Administration (SBA) is changing the job creation or retention requirements under its Development Company Loan Program (504 Loan Program) by increasing the dollar amounts used in calculating the number of jobs that must be created or retained for each 504 Project and for the portfolio average of each Certified Development Company.

DATES: *Applicability Date:* The job creation or retention requirements that are described in this document will apply to all 504 loans that are approved under the 504 Loan Program on or after [date of publication of FR notice].

Comment Date: SBA must receive comments on or before [30 days after publication of the notice].

ADDRESSES: You may submit comments, identified by Docket No. SBA–2023– 0005, by any of the following methods:

(1) Federal eRulemaking Portal: [https:// www.regulations.gov](https://www.regulations.gov), following the instructions for submitting comments; or

(2) Mail/Hand Delivery/Courier: Greg Suryadi, Finance and Loan Specialist, Office of Financial Assistance, U.S. Small Business Administration, 409 3rd Street SW, Washington DC 20416.

SBA will post all comments on <https://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at

<https://www.regulations.gov>, you must submit such information to U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416, Attn: Greg Suryadi, Finance and Loan Specialist; or send an email to gregorius.suryadi@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Greg Suryadi, Finance and Loan Specialist, Office of Financial Assistance, U.S. Small Business Administration; telephone: (202) 205-6806; email: gregorius.suryadi@sba.gov.

SUPPLEMENTARY INFORMATION: The 504 Loan Program is an SBA financing program authorized under Title V of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 695 et seq. The purpose of the 504 Loan Program is to foster economic development and to create or preserve job opportunities in both urban and rural areas by providing long-term financing for small business concerns. See section 501(a) of the SBI Act, 15 U.S.C. 695(a). Under the 504 Loan Program, loans are made to small business applicants by Certified Development Companies (CDCs), which are certified and regulated by SBA to promote economic development within their community. In general, a project in the 504 Loan Program (a 504 Project) is financed through: A loan obtained from a private sector lender with a senior lien covering at least 50 percent of the project cost; a loan obtained from a CDC (a 504 Loan) with a junior lien covering up to 40 percent of the total cost (backed by a 100 percent SBA-guaranteed debenture); and a contribution from the Borrower of at least 10 percent equity.

To qualify for financing under the 504 Loan Program, each 504 Project must satisfy one of the economic development objectives or public policy goals set forth in sections 501(d)(1) through (3) of the SBI Act. Under section 501(d)(1), a Project is eligible for 504 financing if it creates job opportunities within two years of completion of the Project or if it preserves or retains jobs attributable to the Project. Section 501(e)(1) of the SBI Act required each 504 Project to

create or preserve one job for every \$65,000 guaranteed by SBA; in the case of a small manufacturing Project, the amount was \$100,000. Under section 501(e)(2) of the SBI Act, if the Project was eligible for financing under one of the objectives or goals set forth in section 501(d)(2) or (3), the Project did not need to satisfy the job creation or preservation criteria described in section 501(e) provided that the CDC's overall portfolio of outstanding debentures met or exceeded the job creation or preservation criteria of one job for every \$65,000 guaranteed by SBA. In addition, under section 501(e)(3) of the SBI Act, for projects in Alaska, Hawaii, State-designated enterprise zones, empowerment zones and enterprise communities, labor surplus areas (as determined by the Secretary of Labor), and for other areas designated by SBA, the CDC's portfolio did not have to average more than \$75,000 per job created or retained. See section 501(e)(3) of the SBI Act. (Loans for Projects of small manufacturers are excluded from the overall portfolio calculations.)

In 2018 SBA changed the job creation or retention requirements under the 504 Loan Program by increasing the dollar amounts used in calculating the number of jobs that must be created or retained for each 504 Project and for the portfolio average of each Certified Development Company, and designated Opportunity Zones as additional areas for which the higher portfolio average described in section 501(e)(3) of the SBI Act. See 83 FR 55224 (November 2, 2018). Consequently, under current requirements, to satisfy the economic development objectives or public policy goals set forth in sections 501(d)(1) through (3) of the SBI Act, each 504 Project must create or preserve one job for every \$75,000 guaranteed by SBA; in the case of a small manufacturing Project, the amount is \$120,000. Further, under current requirements, if the Project is eligible for financing under one of the objectives or goals set forth in section 501(d)(2) or (3), the Project need not satisfy the job creation or preservation criteria described in section 501(e)(1) provided that the CDC's overall portfolio of outstanding debentures meets or exceeds the job creation or preservation criteria of one job for every \$75,000 guaranteed by SBA. Finally, under current requirements, for projects in Alaska, Hawaii, State-

designated enterprise zones, empowerment zones and enterprise communities, labor surplus areas (as determined by the Secretary of Labor), and for other areas designated by SBA, which include Opportunity Zones (as described by section 13823 of the Tax Cuts and Jobs Act of 2017, Public Law No. 115-97), the CDC's portfolio may average not more than \$85,000 per job created or retained.

The SBI Act authorizes SBA to develop the job creation or job preservation criteria that apply to the 504 Loan Program. See section 501(d) of SBI Act. SBA's regulations provide that "[a] Project must create or retain one Job Opportunity per an amount of 504 loan funding that will be specified by SBA from time to time in a Federal Register notice." 13 CFR 120.861. SBA's regulations also provide that "[a] CDC's portfolio must maintain a minimum average of one Job Opportunity per an amount of 504 loan funding that will be specified by SBA from time to time in a Federal Register notice." 13 CFR 120.829(a).

Although the job creation or retention standards for the 504 Loan Program have not been increased since 2018, the Consumer Price Index for All Urban Consumers has increased 19% from 2018 through January 2023 according to the Bureau of Labor Statistics of the U.S. Department of Labor. Accordingly, pursuant to 13 CFR 120.829(a) and 120.861, SBA is modifying the Job Opportunity requirements as follows:

(1) A Project must create or retain one Job Opportunity per \$90,000 guaranteed by SBA except that, in the case of a Project of a small manufacturer or a project that meets an energy public policy goal, the Project must create or retain one Job Opportunity per \$140,000 guaranteed by SBA;

(2) For Projects that are eligible under 13 CFR 120.862, "Other economic development objectives," a CDC's portfolio must reflect an average of one Job Opportunity for every \$90,000 guaranteed by SBA; and

(3) For Projects in Alaska, Hawaii, State-designated enterprise zones, empowerment zones and enterprise communities, labor surplus areas (as determined by the Secretary of Labor),

and for other areas designated by SBA (which include Opportunity Zones), the CDC's portfolio may average not more than \$100,000 per job created or retained.

SBA invites public comments on these new job creation or preservation standards and the designation of additional areas for application of the higher portfolio average described above.

Please clearly identify paper and electronic comments as "Public Comments on 504 Loan Program's Job Opportunity Requirements, Docket No. SBA-2023-0005" and submit them by one of the methods identified in the ADDRESSES section of this document.

SBA will consider the comments and determine whether any revisions are necessary.

Authority: 15 U.S.C. 695(d); 13 CFR 120.829(a) and 120.861.

Isabella Casillas Guzman,
Administrator.

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